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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA, CASE NO.: 2:16-CR-00046-GMN-PAL

Plaintiff,

V.

DAVE H. BUNDY, erroneously referred to as
DAVID H. BUNDY, et. al.

Defendants.

CASE NO.: 2:16-CR-00046-GMN-PAL

DISTRICT OF NEVADA

DISTRICT OF NEVADA

¹ See, for example, the discussion of the 1992 Constitutional Convention in the *Constitutional Convention of 1992: The Final Report* (1993).

MOTION TO REOPEN RETENTION HEARING

COMES NOW the Defendant, DAVE H. BUNDY, erroneously named as DAVID H. BUNDY by and through his attorneys, CAL J. POTTER, III, ESQ. and C. J. POTTER, IV, ESQ., and hereby submits the following Reply.

This Reply is based upon discovery received, the following analysis, all papers and pleadings on file herein, as well as the arguments of counsel at the time of the hearing in this matter.

DATED this 9th day of May, 2016

/s/ Cal J. Potter, III, Esq.
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1 **MEMORANDUM OF POINTS AND AUTHORITIES IN REPLY**

2 The government's Response ignores the numerous factors that demonstrate that Mr. D.
3 Bundy is not a danger to the community and will remain in Delta, Utah and meet all court
4 obligations as required. On the contrary, the government seeks to impose finality over fairness.

5 As an initial matter, each of the five exhibits which were supplemented to Dave Bundy's
6 Motion to Reopen the Detention Hearing are information which was not known at the time of the
7 original detention hearing, under 18 U.S.C. § 3142, because each document did not exist at the
8 time of the original detention hearing. (*See*, Doc. 361, pp. 5-15). Each of those documents has a
9 material bearing upon the issue of whether there are conditions of release that will reasonably
10 assure the appearance of such person as required and the safety of any other person and the
11 community. Specifically, Millard County Sheriff Robert A. Dekker explains that the Sheriff is
12 aware of Dave Bundy's criminal case and that the Sheriff concludes that Dave Bundy should be
13 released to the Sheriff's community or that Millard County has the ability to provide Dave Bundy
14 with a GPS ankle monitor that can ensure that Dave Bundy is not a risk of non-appearance. (Doc.
15 361, p. 15). Moreover, the letters from Dave Bundy's children demonstrate that Dave Bundy is
16 not a risk to the community and illustrate the incentives that Dave Bundy has to appear in this
17 Court and defend himself from the baseless allegations lodged by the Government.

18 As of the date of this Reply, the Government still has not produced any evidence,
19 whatsoever, that tends to demonstrate that Dave Bundy is a risk of non-appearance at future court
20 dates or a risk of danger to the community. On the contrary, the Government merely relies upon
21 far-fetched allegations of a vast conspiracy which do not have evidentiary support. In actuality,
22 Dave Bundy was merely a peaceful protester in 2014 at the Bundy Ranch.

23 As a result of the Government's failure to produce any evidence the following facts
24 before this Court are unrefuted: Dave Bundy has lived in the same County as the cowboys who
25 were contracted with BLM for a round-up of the cattle of Cliven Bundy. Dave likewise has not
26 had any contact with the BLM enforcement division. On the contrary, in 2013, Dave Bundy
27 agreed to allow the BLM to come onto his property and allowed the BLM to fill their helicopters
28 with his water to fight wildfires in the area. Dave has a clearance with the TSA for his work as an

1 airline pilot. Likewise, he holds a Commercial Driver's License issued through the federal
2 government, a commercial pilot's license from the Federal Aviation Administration, and a
3 general engineering license. Dave Bundy has demonstrated respect for the federal government by
4 paying his taxes, voting, paying licensing fees and insurance for his companies.

5 In order to obtain the numerous licenses that Dave Bundy possesses he could not have a
6 criminal record. That fact illustrates the lack of danger that Mr. Bundy poses to the community as
7 well as the incentive he has to appear at all court dates and defend himself from the
8 Government's accusations. Dave Bundy will not jeopardize his life's work or the well-being of
9 his family by failing to appear for court or by posing danger to any person or entity. Dave's
10 family, business, and employees will not be able to succeed without Dave's presence. Dave
11 Bundy is a peaceful man, husband and father. The Court may take judicial notice of the fact that
12 then Assistant Sheriff Joe Lombardo is quoted as stating: "They were in my face and yelling
13 profanities and pointing weapons. *The Bundy son himself, that I was negotiating with, Dave, he*
14 *did not do that*, but all the associated people around him did do that."¹

15 Based on the reasons stated above, Mr. D. Bundy assures the Court that he will comply
16 with all instructions and orders issued pending the resolution of this matter. Accordingly, Mr. D.
17 Bundy respectfully requests that the Court grant his Motion to Reopen Detention Hearing issued
18 by the Magistrate Judge in the District of Utah and release him pending trial with any conditions
19 the Court deems necessary.

20 DATED this 9th day of May, 2016.

21 /s/ Cal J. Potter, III, Esq.
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1 Available online at :
www.lasvegasnow.com/news/iteam-police-faced-possible-bloodbath-at-bundy-protest

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that pursuant to FRCP 5(b), I did serve at Las Vegas, Nevada on this 9th day of May, 2016 a true and correct copy of **DAVE H. BUNDY'S REPLY TO MOTION TO REOPEN DETENTION HEARING** on all parties to this action via CM/ECF system addressed as follows:

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